

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

ELIZABETH ANN DARLING  
TX-1331169-G

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DOCKETED COMPLAINT NO. 08-141

**AGREED FINAL ORDER**

On this the 21<sup>st</sup> day of May, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Elizabeth Ann Darling, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Elizabeth Ann Darling neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Elizabeth Ann Darling is a state certified general real estate appraiser, holds certification number TX-1331169-G, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about December 19<sup>th</sup>, 2005, the Respondent appraised real property located at 200-208 & 201-207 E. Franklin, Hillsboro, Hill County, Texas ("the property").
4. On or about March 17<sup>th</sup>, 2008, the Complainant, Jack McComb, filed a staff-initiated complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
5. On or about March 18<sup>th</sup>, 2008, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a. Respondent failed to identify the intended use of her opinions and conclusions;
- b. Respondent failed to report the scope of work necessary to complete the assignment;
- c. Respondent failed to identify and report the site description adequately;
- d. Respondent failed to report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- e. Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- f. Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- g. Respondent failed to collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques in her cost approach;
- h. Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques her sales comparison approach;
- i. Respondent failed to collect, verify, analyze and reconcile comparable rental data for subject rent and/or the potential earnings capacity of the property to estimate the gross income potential of the property;
- j. Respondent failed to collect, verify, analyze and reconcile comparable operating expenses and comparable data to estimate capitalization and/or discount rates;
- k. Respondent failed to base projections of future rent or income potential and expenses on reasonable clear and appropriate evidence and failed to employ recognized methods and techniques in her income capitalization approach;
- l. Respondent failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal;
- m. Respondent failed to analyze all sales of the subject property within 3 years prior to the effective date of her appraisal;

- n. Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- o. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent made material misrepresentations and omitted material facts as detailed above.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule; USPAP Standards: 1-2(b) & 2-2(b)(ii); 1-2(f) & 2-2(b)(vii); 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(ix); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(ix); 1-4(c)(ii) & 2-2(b)(ix); 1-4(c)(iii) & 2-2(b)(ix); 1-4(c)(iv) & 2-2(b)(ix); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have her certification suspended for twenty-four months with the suspension fully probated under the following terms and conditions:
  - i. During the entire twenty-four month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities she has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of her appraisal reports and work files for any appraisal assignments she performs during the course of this period of probation within the twenty days of notice of any such request;
  - ii. No trainees shall be sponsored during the entirety of the twenty-four month suspension;

- iii. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Pay an administrative penalty of \$2,500.00; and,
  - i. Payment of the administrative penalty shall be made in 20 monthly and equal \$125.00 installments with the first such payment being due on or before June 1<sup>st</sup> and the remainder due monthly by the first day of each month thereafter; and,
- d. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered in accordance with the terms of this Agreed Final Order.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the probation shall be revoked and the suspension shall remain in effect for the full remainder of the eighteen month suspension period.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about

this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

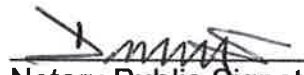
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 13 day of May, 2010.

  
ELIZABETH ANN DARLING

  
TED WHITMER, ATTORNEY FOR  
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 13 day of may, 2010, by ELIZABETH ANN DARLING, to certify which, witness my hand and official seal.

  
Notary Public Signature

DAVESH PATEL  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 25<sup>th</sup> day of MAY, 2010.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 24 day of May, 2010.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21<sup>st</sup> day of May, 2010.



James B. Ratliff, Chairperson  
Texas Appraiser Licensing and Certification Board